REMARKS/ARGUMENTS

The non-Final Office Action dated March 9, 2007 has been received and reviewed. Claims 1–30 are pending in the subject application. All claims stand rejected. Claims 1, 2, 9, 11, 12, 19, and 21–30 have been amended as hereinabove set forth. Reconsideration of the present application in view of the above amendments and the following remarks is respectfully requested.

Rejections based on 35 U.S.C. § 101

Claims 21–30 have been rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Claim 21 has been amended to recite one or more computer-readable media having computer-executable instructions embodied thereon for generating a clinically related supply order. It is respectfully submitted that the recited computer-readable media represent statutory subject matter and, accordingly, the rejection of this claim has been overcome. Each of claims 22–30 depends, either directly or indirectly, from independent claim 21. As such, each of these claims has been amended to properly reference independent claim 21 and is believed to be directed towards statutory subject matter for at least the above-cited reasons. Accordingly, withdrawal of the 35 U.S.C. § 101 rejection of claims 21–30 is respectfully requested.

Rejections based on 35 U.S.C. § 103

A.) Applicable Authority

The basic requirements of a *prima facie* case of obviousness are summarized in MPEP § 2143 through § 2143.04. In order "[t]o establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art,

to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success [in combining the references]. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)". *See* MPEP § 2143. Recently, the Supreme Court elaborated, at pages 13-14 of the *KSR* opinion, that "it will be necessary for [the Office] to look at interrelated teachings of multiple [prior art references]; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by [one of] ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the [patent application]." *KSR v. Teleflex*, No. 04-1350, 550 U.S. ___ (2007).

Further, in establishing a *prima facie* case of obviousness, the initial burden is placed on the Examiner. "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references. *Ex parte Clapp*, 227 USPQ 972, 972, (Bd. Pat App. & Inter. 1985)." *Id. See also* MPEP § 706.02(j) and § 2142.

B.) Rejections based on U.S. Patent No. 5,682,728 to DeBusk in view of U.S. Patent No. 6,151,582 to Huang.

Claims 1–30 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,682,728 to DeBusk et al. (hereinafter the "DeBusk reference") in view of U.S. Patent No. 6,151,582 to Huang et al. (hereinafter the "Huang reference"). As the Debusk

reference and the Huang reference, whether taken alone or in combination, fail to teach or suggest all of the limitations of the rejected claims, Applicants respectfully traverse this rejection, as hereinafter set forth.

Independent claim 1, as amended herein, recites a system for managing clinically related supply procurement. The system includes a first interface to receive patient supply data captured from at least one clinically related site, a second interface to receive care provider preference data from the at least one clinically related site, and an analytic engine that communicates with the first interface and the second interface to aggregate the patient supply data to evaluate comparative clinical supply policies. The patient supply data comprises items used and/or consumed during a clinical event.

The DeBusk reference, on the other hand, describes the management of consumable medical supplies by creating bills of materials associated with care events within a clinical pathway. *See* DeBusk reference at col. 2 lines 29-37. A bill of materials representing those medical supplies that have been identified as "to be used" for a given care event is generated and supplies are aggregated into supply bundles at a plurality of locations and delivered to the end-user of the aggregated supplies. *See id.* at col. 2 line 50–col. 3, line 2; col. 3, line 34. The DeBusk reference also discloses anticipating supply usage based upon historical records relating to the frequency of occurrence of given care events at a particular facility and/or aggregated facility usage of common medical supplies over time. *See id.* at col. 2 line 59–col. 6, line 13.

However, the DeBusk reference fails to teach or suggest an interface for receiving patient supply data captured from at least one clinically related site, the patient supply data comprising items used and/or consumed during a clinical event. The DeBusk reference does not

disclose recording the supplies that are actually used and/or consumed during clinical events but rather describes the management and procurement of supply bundles containing medical supplies "intended for use" in a future care event. *See*, *DeBusk Reference* at col. 5, lines 22–45. As will be appreciated by one of ordinary skill in the art, upon occurrence of the future care event, some of the items included in the supply bundle may not be used at all. As such, the supplies "intended for use" and the supplies actually used or consumed during a clinical event cannot be equated.

It is stated in the Office Action that "patient supply data" is described in the DeBusk reference at col. 5, lines 6-21. *See*, *Office Action* at p.3, ¶ 5. It is respectfully submitted, however, that the referenced section of the DeBusk reference merely describes a typical supply chain that includes suppliers, medical facilities and care events associated with the use of medical supplies "intended for use" and does not describe capturing patient supply data that includes items used and/or consumed during a clinical event.

It is respectfully submitted that the Huang reference does not cure this deficiency of the DeBusk reference, nor is it relied upon for such teaching. Rather, the Huang reference describes a supply-chain-optimization system that is used in manufacturing and commercial environments. The Huang reference is not related to patients and/or patient supply data of any kind. *See generally*, Huang reference.

Accordingly, it is respectfully submitted that the DeBusk reference, the Huang reference, and/or any combination thereof, fails to teach or suggest all of the limitations of independent claim 1, as amended herein. As such, it is believed that amended independent claim 1 is not obvious in view the of the cited combination of references. Each of claims 2–10 depends, either directly or indirectly from independent claim 1 and, accordingly, is believed to

be non-obvious over the asserted combination of references for at least the above-cited reasons. Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejection of claims 1–10 is respectfully requested. Each of claims 1–10 is believed to be in condition for allowance and such favorable action is respectfully requested.

Independent claim 11, as amended herein, recites a method for managing clinically related supply procurement. The method includes receiving patient supply data captured from at least one clinically related site, the patient supply data comprising items used and/or consumed during a clinical event; receiving care provider preference data from the at least one clinically related site; aggregating the patient supply data to evaluate comparative clinical supply policies; and storing the aggregated patient supply data.

As previously set forth, the DeBusk reference fails to teach or suggest receiving patient supply data captured from at least one clinically related site, the patient supply data comprising items used and/or consumed during a clinical event. Rather, the DeBusk reference describes the management of consumable medical supplies by creating bills of materials for supplies "to be used" in association with future care events. *See* DeBusk reference at col. 2 lines 29-37. Further, the Huang reference does not cure this deficiency of the DeBusk reference, nor is it relied upon for such teaching. Rather, the Huang reference describes a supply-chain-optimization system that is used in manufacturing and commercial environments. The Huang reference is not related to patients and/or patient supply data of any kind. *See generally*, Huang reference.

Accordingly, it is respectfully submitted that the DeBusk reference, the Huang reference, and/or any combination thereof, fails to teach or suggest all of the limitations of independent claim 11, as amended herein. As such, it is believed that amended independent

claim 11 is not obvious in view the of the cited combination of references. Each of claims 12–20 depends, either directly or indirectly from independent claim 11 and, accordingly, is believed to be non-obvious over the asserted combination of references for at least the above-cited reasons. Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejection of claims 11–20 is respectfully requested. Each of claims 11–20 is believed to be in condition for allowance and such favorable action is respectfully requested.

Claim 21 recites one or more computer-readable media having computer-executable instructions embodied thereon for performing a method for generating a clinically related supply policy. The method includes receiving patient supply data captured from at least one clinically related site, the patient supply data comprising items used and/or consumed during a clinical event; receiving care provider preference data for the clinical event from the at least one clinically related site, aggregating the patient supply data to evaluate comparative clinical supply policies and storing the aggregated patient supply data.

As previously set forth, the DeBusk reference fails to teach or suggest receiving patient supply data captured from at least one clinically related site, the patient supply data comprising items used and/or consumed during a clinical event. Rather, the DeBusk reference describes the management of consumable medical supplies by creating bills of material for supplies "to be used" in association with future care events. *See* DeBusk reference at col. 2 lines 29-37. Further, the Huang reference does not cure this deficiency of the DeBusk reference, nor is it relied upon for such teaching. Rather, the Huang reference describes a supply-chain-optimization system that is used in manufacturing and commercial environments. The Huang reference is not related to patients and/or patient supply data of any kind. *See generally*, Huang reference.

Accordingly, it is respectfully submitted that the DeBusk reference, the Huang reference, and/or any combination thereof, fails to teach or suggest all of the limitations of independent claim 21, as amended herein. As such, it is believed that amended independent claim 21 is not obvious in view the of the cited combination of references. Each of claims 22–30 depends, either directly or indirectly from independent claim 21 and, accordingly, is believed to be non-obvious over the asserted combination of references for at least the above-cited reasons. Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejection of claims 21–30 is respectfully requested. Each of claims 21–30 is believed to be in condition for allowance and such favorable action is respectfully requested.

CONCLUSION

For at least the reasons stated above, claims 1–30 are believed to be in condition for allowance and such favorable action is respectfully requested. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned by telephone prior to issuing a subsequent action.

The fee for a one-month extension of time is submitted herewith. It is believed that no additional fee is due in conjunction with the present communication. However, if this belief is in error, the Commissioner is hereby authorized to charge any additional amount required to Deposit Account No. 19-2112, referencing attorney docket number CRNI.111419.

Date: July 9, 2007

Respectfully submitted,

/Tawni L. Wilhelm/

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